

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 United States of America,

4 Plaintiff

5 v.

6 Brian Wright,

7 Defendant

Case No.: 2:17-cr-00142-JAD-VCF

**Order Denying Defendant's Motion to Set
Aside Judgment**

[ECF No. 176]

8 Brian Wright was found guilty of three counts of assault of a federal officer after a two-
9 day jury trial.¹ He subsequently moved for a judgment of acquittal under Federal Rule of
10 Criminal Procedure 29. After I denied the motion² but before I sentenced Wright, he appealed to
11 the Ninth Circuit Court of Appeals and separately moved the Ninth Circuit for a stay of his
12 sentencing to petition for a writ of mandamus.³ Shortly after, the Ninth Circuit ordered Wright
13 to show cause why his appeal shouldn't be dismissed for lack of jurisdiction given that judgment
14 had not yet been entered.⁴ Wright also moved this court to stay his sentencing, which I denied,
15 making clear that his sentencing would continue absent an order from the Ninth Circuit.⁵ I
16 sentenced Wright last month and entered judgment.⁶

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20 ¹ ECF Nos. 118 (minutes), and 123 (verdict).

21 ² ECF No. 159.

22 ³ ECF Nos. 161, 164.

23 ⁴ *United States v. Wright*, 19-10022 (9th Cir. 2019), Dkt. No. 2.


⁵ ECF No. 169.

⁶ ECF Nos. 171–72.

1 A week later, Wright moved to set aside judgment, arguing that I lacked jurisdiction to
2 sentence him while his appeal was pending.⁷ Although the filing of a notice of appeal normally
3 “confers jurisdiction on the court of appeals and divests the district court of its control over those
4 aspects of the case involved in the appeal,”⁸ Wright prematurely appealed his conviction.
5 Indeed, the Ninth Circuit recently dismissed his appeal for lack of jurisdiction,⁹ demonstrating
6 that this court retained jurisdiction through sentencing. I therefore deny Wright’s motion.

7 Accordingly, IT IS HEREBY ORDERED that Wright’s **motion to set aside judgment**
8 **[ECF No. 176] is DENIED.**

9 Dated: April 9, 2019

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11 U.S. District Judge Jennifer A. Dorsey

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23 ⁷ ECF No. 176.

⁸ *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982).

⁹ ECF No. 177.